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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

1. [Illegible text]

ART UNIT	PAPER NUMBER
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DATE MAILED:

11/18/90

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/207,634

Applicant(s)
Berke et al.

Examiner
Bridget Avery

Group Art Unit
3618



☒ Responsive to communication(s) filed on Sep 25, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 5-14 and 20-28 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 5-10, 12-14, and 20-28 is/are rejected.

☒ Claim(s) 11 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5-7, 10, 12, 20, 24, 25, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Mascio (Italian Patent 574172).

(see attachment)

11/20/00
Mascio discloses ¹in combination with a 2 wheeled cart, a detachable carrier mounted on the cart for transporting closed bag or sack (e), the carrier having a pair of elongated jaws (1), a means (g) for clamping the jaws (1) to and releasing the jaws (1) from an upper portion of the bag or sack (e), a handle ²(a) attached to at least one of the jaws (1), the cart has a lower shelf portion (c) for supporting the bag or sack (e), and, the carrier is releasable from the cart.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mascio ('172) in view of Server Perez (US Patent 4,989,889).

Mascio discloses the features described above.

Mascio fails to disclose a pivotably mounted shelf.

Server Perez discloses a foldable cart for shopping where the cart includes a pivotably mounted shelf (5).

Based on the teachings of Server Perez, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to include a pivotably mounted shelf to reduce the size of the cart for storage.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mascio ('172) in view of Hsieh et al. (US Patent 5,591,037).

Mascio discloses the features described above.

Mascio fails to disclose an outwardly adjustable shelf.

Hsieh et al. discloses a luggage cart having a shelf with telescoping tubes.

Based on the teachings of Hsieh et al., it would have been obvious to one of ordinary skill in the art to modify the cart of Mascio to include an adjustable shelf with telescoping tubes to support bags of various sizes.

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6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mascio ('172).

Mascio discloses the features described above.

Mascio fails to disclose a bolt and thumb nut connection.

The bolt and holes (see figure 6), taught by Mascio, are functionally equivalent to the applicant's claimed bolt and thumb nut. The selection of any of these known equivalents to attach elements would be within the level of ordinary skill in the art.

7. Claims 21-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mascio ('172) in view of White (US Patent 5,621,950).

Mascio discloses the features described above.

Mascio fails to disclose triangular outward extending tabs.

White discloses a spring biased paper clip having outward extending tabs for gripping paper.

Based on the teachings of White, it would have been obvious to one of ordinary skill in the art, at the time of the applicant's invention, to modify the cart of Mascio to include outward extending tabs, of any shape, on the gripping surfaces of the jaws to facilitate ease in securing a bag or sack within the jaws.

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Allowable Subject Matter

8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 5-14 and 20-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Davis et al. shows a wheeled shopping bag.

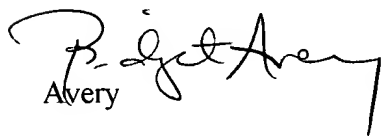
Stelniceanu shows a wheeled push cart.

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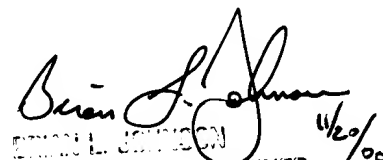
11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number (703) 308-2086.


Avery

November 6, 2000


BRIAN L. JOHNSON
UNITED STATES PATENT AND TRADEMARK OFFICE
TECHNOLOGY CENTER 6350